

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Crl.MC.No. 3212 of 2007()

ST.945/2006 of JUDL. MAGISTRATE OF FIRST CLASS-II(MOBILE), KOTTAYAM

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PETITIONER: ACCUSED

SMT. RENSEENA BIJU, W/O BIJU GEORGE,
AGED 33, PREMADIKUZHAYIL,
KALASTHUKADAVU P.O., ERATTUPETTA.

BY ADV. SRI.N.RATHEESH
SMT.SUMA RATHEESH

RESPONDENTS: COMPLAINANT & STATE

1. SREE GOKULAM CHIT & FINANCE COMPANY(P)
LTD., CENTRAL OFFICE AT KODAMBAKKAM, CHENNAI,
REP. BY ITS POWER OF ATTORNEY HOLDER
SRI. K.N.REJEESH, BRANCH OFFICE AT PRAKKATTU
BUILDING, 1ST FLOOR, CENTRAL JUNCTION,
KOTTAYAM.
2. THE STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3212 of 2007

Dated this the 18th day of October 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance was taken in 2006. On 10/10/2007 when the matter came up for hearing, the petitioner's counsel could not be present on account of reasons beyond his control. Consequently, a warrant of arrest has been issued against the petitioner by the learned Magistrate.

2. According to the petitioner, the petitioner is innocent. The absence of the petitioner on 10/10/2007 was on account of reasons beyond his control. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But she apprehends that her application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. She, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when she appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which she could not earlier appear before

the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of this case, there shall be a direction that the warrant of arrest issued against the petitioner shall not be executed till 29/10/2007. On or before that date, the petitioner shall surrender before the learned Magistrate and seek regular bail.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007